order to comply with the document preparation requirements of Rule 33. The documents in question are as follows:

In reference to Undisputed Fact No. 18, the third line reads, "Unit, *report sent* the court pursuant to California Family..." This appears to be a typographical error in the reproduction of the Order because the original Order reads, "Unit, *represent the court* pursuant to California Family..." (See United States District Court for the Eastern District, Docket No. 63, at p. 9)

The purpose for bringing this to the attention of the Court is to avoid any confusion about a possible "report" that may have been sent to the underlying court, as indicated in this sentence.

3. Petition at pages 2 and 3 - Statement of the Case:

Petitioner's Statement of the Case, second paragraph, third sentence, references the September 2, 1999, Order entered by Judge Jane Cardoza of the Superior Court of California, County of Fresno. Petitioner purports that,

> The Court added another stipulation that Fresno would enforce and maintain jurisdiction unless a [*sic*] original Moscow custody order was filed in Fresno. Until then, the County of Fresno would enforce the custody order including 'failure to obey this order shall be deemed a violation of Sections 166.4, 273.6, 278, 278.5, and 279 of the California Penal Code and appropriate law

enforcement agencies are directed to secure compliance of this order.' (App. 91)

[Petitioner adds a footnote that the provision referred to can be found at paragraph 5.03.]

However, nowhere in the September 2, 1999 Order rendered by Judge Cardoza (specifically in paragraph 5.03 on page 91 of the Appendix) does it specifically read that the County of Fresno would be the enforcing agency. Nor, as stated by the Petitioner, does this particular Order read that "Fresno would enforce and maintain jurisdiction unless a original Moscow custody order was filed in Fresno." Petitioner inaccurately referred to this language in the September 2, 1999, Order.

Therefore, it must be clarified that the County of Fresno was given no specific directive under the September 2, 1999, Order rendered by Judge Cardoza. (See Petition App. at pp. 85-92.)

4. Petition at page 4, first sentence of first full paragraph:

Petitioner filed a federal complaint on December 11, 2001, not December 6, 2001. (United States District Court for the Eastern District, Docket No. 1) Also, the Amended Complaint was filed on March 13, 2002, not March 12, 2002. (USDC, Eastern District Docket No. 19)

5. Petition at pages 4 (last paragraph) and 5:

Petitioner claims that, "Respondents' failure to comply and misuse of legal procedure, acting in the shadow of arrogance and power, blatantly chose to ignore the November 3, 2000 court order that... 'resulted in emotional

duress that required psychiatric counseling for post traumatic stress disorder.'" In support thereof, Petitioner offers a letter prepared by clinical psychologist, Devora Goldberg-Lockton, Ph.D, dated February 21, 2003. (App. at pp. 93-95.) However, nowhere does this letter state that the Petitioner endured Post Traumatic Stress Disorder as a result of the County of Fresno's actions. Instead, the letter clearly reads (first page, second paragraph):

> Mr. Synclair is suffering from Post Traumatic Stress Disorder...brought on by the trauma of having his son Larry Synclair, Jr. kidnapped by his former wife in July 1999.

Although the letter makes reference in the third paragraph that, "The lack of response by the American authorities including the District Attorney to assist him has been especially troubling for Mr. Synclair," this by no means implies that the Respondents' actions or inactions caused him to suffer Post Traumatic Stress Disorder. In fact, the letter goes on to consider other contributing factors to Petitioner's distress, such as: Petitioner's own efforts in seeking redress (fourth paragraph); The reactivation of the trauma from the crime of kidnapping (fourth paragraph);The fact that the American Embassy has denied contact with his son (fourth paragraph); and Petitioner's intrusive recollections of his son (fifth paragraph).

Respondents contend that this reference in Petitioner's Statement of Facts inaccurately interprets the February 21, 2003, letter by Dr. Goldberg-Lockton.

6. Petition at page 6, second full paragraph:

In reference to the County of San Diego's Order of December 20, 2002 (App. at pp. 34-45) Petitioner purports,

"In essence, the County of San Diego lawfully recognized and complied with Fresno County Court's Order After Hearing dated November 3, 2000."

First, in its Order, the San Diego Court gave a thorough legal analysis of its jurisdiction under the Uniform Child Custody Jurisdictional and Enforcement Act (UCCCJEA) as well as Family code §3421, subs. (a) and (b), unlike the November 3, 2000, Order rendered by Fresno County Judge Nancy Cisneros, which cites no legal authority for jurisdiction and includes no reference to UCCCJEA or Family Code §3421, subs. (a) and (b).

Second, the December 20, 2002, San Diego Order, heavily relied on by Petitioner, makes reference to "this court's previous order" that discusses jurisdiction. (See App. p. 35, Jurisdiction.) It is unclear which "previous order" is being referred to, other than it was rendered from "this court." Although Petitioner makes no reference to what may be included in that "previous order," we do know that it pertains to jurisdiction, the exact issue Respondents contend the District Court lacked. Therefore, it would seem necessary to inquire as to the substance of that Order; again, something the District Court would have been barred from doing under the *Rooker-Feldman* doctrine.

Third, the San Diego Order (App. 39, footnote 5) makes reference to Judge Cardoza, but associates Judge Cardoza with the Superior Court in and for the County of

San Diego. Judge Jane Cardoza was and is presiding in the County of Fresno.

7. Petition at page 11, first full paragraph:

In support of the position that the Ninth Circuit's ruling contradicts the Seventh Circuit's rulings, Petitioner cited the District Court as stating,

> ... it is barred from having jurisdiction because it would have to consider an administrative letter written by the Respondents.

This is not an accurate representation of the District Court's Order, which specifically explained that it is the *decision* of the District Attorney's Office outlined in the letter that must be considered, not simply the letter. (See, Petitioner's App. p. 27.)

MISAPPLICATION OF LAW

Petitioner cites to *Gorzelanczyk v. Baldassone*, 29 Fed.Appx. 402, 403 (7th Cir. 2002). However, this case was not selected for publication and is not to be cited per Seventh Circuit Rule 53.

Should the Court allow the use of this case, Respondents request that they be allowed to reserve their rights to fully distinguish and/or apply the facts and law of this case to their issues.

CONCLUSION

Respondents object to the Petitioner's Questions Presented for Review as vague and inaccurate as phrased.

Respondents request this Court to consider the misstatement of facts included within the petition.

The petition does not support Petitioner's position that the United States Court of Appeals for the Ninth Circuit has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter. The petition does not assert that the Ninth Circuit has decided an important federal question in a way that conflicts with a decision by a state court of last resort. Nor does the petition address whether the Ninth Circuit has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by the District Court, so as to call for an exercise of this Court's supervisory power.

Wherefore, Respondents respectfully request that this petition for writ of certiorari be denied.

Dated: October 25, 2005.

Respectfully submitted,

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